Ports price determination: 2017-2022

To apply from 31 October 2017
The Essential Services Commission is an independent statutory authority with functions in a range of essential services including water, sewerage, electricity, gas, rail and maritime services, and also has a general advisory function on economic matters. For more information, please visit www.escosa.sa.gov.au.
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1 General

1.1 Authority

1.1.1 This price determination is made pursuant to the powers of the Commission under Part 3 of the Essential Services Commission Act 2002, as authorised by section 6(2) of the Maritime Services (Access) Act 2000.

1.2 Term

1.2.1 This determination has effect for the period from 31 October 2017 up to and including 30 October 2022.

1.3 Application

1.3.1 This determination regulates conditions relating to:

(a) the publishing of prices for essential maritime services provided by a regulated service provider and the reporting of related information to the Essential Services Commission, and

(b) the monitoring and reporting, by the Commission, of price levels for the essential maritime services provided by a regulated service provided.

1.3.2 This determination binds a regulated service provider operating at a proclaimed port.

1.4 Revocation of previous price determinations

1.4.1 Pursuant to section 26(8) of the Essential Services Commission Act 2002, on and from 31 October 2017, this price determination revokes all previous price determinations made by the Commission under section 6(2) of the Maritime Services (Access) Act 2000.

1.4.2 Nothing in this price determination affects anything done or omitted to be done or rights or obligations accrued under the previous determination made by the Commission under section 6(2) of the Maritime Services (Access) Act 2000.

1.5 Definitions and interpretation

1.5.1 Where a term used in this price determination is defined in the Maritime Services (Access) Act 2000, it has the meaning given in that Act.

1.5.2 Subject to clause 1.5.1, in this price determination, unless the contrary intention appears:

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Commission</td>
<td>means the Essential Services Commission, a statutory body established</td>
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<tr>
<td></td>
<td>under the Essential Services Commission Act 2002</td>
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<tr>
<td>business day</td>
<td>means a day in South Australia, other than a Saturday, Sunday or public</td>
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<td></td>
<td>holiday</td>
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essential maritime service means a maritime service consisting of:
(a) providing or allowing for access of vessels to a proclaimed port; or
(b) providing port facilities for loading or unloading vessels at a proclaimed port; or
(c) providing berths for vessels at a proclaimed port

regulated service provider means a person who carries on a business of providing essential maritime services at a proclaimed port

1.5.3 This price determination must be interpreted according to the following principles:
(a) words denoting persons include corporations, unincorporated associations, firms, governments and governmental agencies
(b) a reference to a person includes that person's agents, successors and permitted assigns, persons who have control over any assets of a person and receivers, managers, trustees, administrators and liquidators and similar persons appointed over:
   (i) a person, or
   (ii) any assets of a person
(c) headings are only included for convenience and do not affect interpretation
(d) unless specified otherwise, a reference to a clause, Chapter, Part or Schedule is to a clause, Chapter or Part of or Schedule to this price determination
(e) a reference to an agreement, document, regulatory instrument or part thereof is a reference to that agreement, document, regulatory instrument or part thereof as varied, replaced or substituted from time to time and includes any Schedules or attachments to the agreement, document or regulatory instrument, and
(f) a reference to legislation or regulatory instrument, or to a provision of the legislation or regulatory instrument, includes a modification, re-enactment or re-making of it, a provision substituted for it and a regulation or other statutory instrument issued under it.

1.6 Collection and use of information

1.6.1 The Commission may request any information from a regulated service provider to determine its compliance with the requirements of this price determination or in relation to the provision of essential maritime services provided by a regulated service provider.

1.6.2 Any information required to be provided by a regulated service provider under, or in accordance with, this price determination may be required (and utilised) by the Commission in accordance with Part 5 of the Essential Services Commission Act 2002.
2 Price Determination

2.1 Published Prices

2.1.1 For the term of this price determination, a regulated service provider must set and publish on its website, in a prominent and readily accessible position, a comprehensive list of its prices for the provision of essential maritime services for each financial year, prior to the commencement of that year.

2.1.2 A regulated service provider must publish on its website any changes to its list of prices set in accordance with clause 2.1.1 within two business days of those prices being changed.

2.1.3 A regulated service provider and a customer may reach agreement for the provision of essential maritime services at a price that differs from the prices set or published in accordance with clauses 2.1.1 or 2.1.2.

2.2 Price Monitoring

2.2.1 The Commission may, during the period of this determination:

(a) monitor the prices charged for the provision of essential maritime services by a regulated service provider;

(b) publish reports on prices charged for essential maritime services by a regulated service provider; and

(c) monitor and publish reports on matters relating to prices charged for essential maritime services by a regulated service provider.

2.3 Reporting Requirements

2.3.1 A regulated service provider must provide the Commission with a copy of its list of prices, as set and/or published in accordance with clauses 2.1.1 or 2.1.2, within 10 business days of that list being set and/or published.

2.3.2 A regulated service provider must inform and give relevant details to the Commission of any agreements reached under clause 2.1.3 during each financial year of the period, no later than three months after the end of that financial year.

2.3.3 A regulated service provider must make available to the Commission any information relating to prices that is reasonably requested by the Commission.

2.3.4 A regulated service provider must provide to the Commission, at the Commission's request, reasons for any increase in prices.
This price determination was made by the Commission on 27 September 2017 pursuant to Part 3 of the Essential Services Commission Act 2002, as authorised by section 6(2) of the Maritime Services (Access) Act 2000.

The COMMON SEAL of the ESSENTIAL SERVICES COMMISSION of South Australia was hereunto affixed by authority of the ESSENTIAL SERVICES COMMISSION and in the presence of:

[Signature]

Commissioner

27 September 2017

Date